IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7230 OF 2007

Vithal Sanjeeva Shetty ....Petitioner
V/s
State of Maharashtra & Ors..... ....Respondents.

Ms.Vidya Manjrekar Adv. For the petitioner.

Ms.V.S.Mhaispurkar, AGP For the respondents.

CORAM: A.P.DESHPANDE, J.
3/10/07

PC:

Rule. Rule made returnable forthwith.

Taken up for final hearing by consent of parties.

The present petitioner is carrying on business under the name and style of Hotel Shiv Shakti at Borivali, West since last about two years. The petitioner was in possession of license for carrying on the said business. The petitioner applied for renewal of license. The respondent No.2 issued show cause notice calling upon the petitioner to show cause as to why license should not be suspended for a period of 45 days. The petitioner replied to the show cause notice and contended that no penal action is liable to be taken. Not convinced by the reply to show cause notice the 2nd respondent proceeded to pass order dated 28.8.07 directing suspension of police license No.145/Borivali for a period of 45 days. By the very same order the petitioner was intimated that if the petitioner is aggrieved by the impugned order the petitioner shall file an appeal before the State Government within a period of 30 days from the date of receipt of the impugned order. The petitioner was also called upon to exercise option either to accept the impugned order or file an appeal before the State Government and intimate the decision one day

prior to local police station. The present petitioner filed an appeal on 17.9.07 and along with appeal also filed stay application seeking stay of execution of the order of suspension of the license passed by respondent No.2. The grievance of the petitioner is that though period of 30 days has expired the State Government has failed to pass an order on the stay application and thus though there is statutory right of appeal in the petitioner the same is rendered nugatory on account of failure of the State Government to pass proper orders on the stay application. The petitioner shall be constrained to close down the business as no orders are passed on the said application. Learned Additional Government Pleader appearing for the respondents submits that if so directed respondent No.1 shall decide the stay application within a period of six weeks from today. Respondent No.1 is not justified in keeping the stay application pending more so when the penal order of suspension is made to operate on expiry of period of 30 days. Learned additional government pleader submits that the matter remained to be decided before the State Government due to heavy rush of cases pending on the file of concerned Minister. In this view of the matter writ petition partly succeeds. Respondent No.1 is directed to pass appropriate orders in accordance with law on the stay application filed by the petitioner along with appeal taking exception to the order passed by respondent No.2 suspending police license for a period of 45 days within a period of six weeks from today after affording reasonable opportunity of hearing to the petitioner. Till the decision on the stay application the order passed by respondent No.2 dated 28.8.07 shall remain stayed. Rule partly made absolute in above terms.

3.10.07